

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

CARLOTTA TAYLOR,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No: 4:20-cv-147
	)	
CHRIS L. SMITH AND	)	
EXECUTIVE TRANSPORTATION, INC.,	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

Defendants, Chris L. Smith and Executive Transportation, Inc. (collectively, “ETI Defendants”), by counsel, hereby provide notice of removal of this action pursuant to the provisions of 28 U.S.C. § 1332 and § 1446, from the Superior Court 2 of Dearborn County, Indiana, to the United States District Court for the Southern District of Indiana, New Albany Division, and respectfully state:

**Background**

1. On June 1, 2020, Plaintiff filed her Complaint for Damages in the Superior Court of Dearborn County, Indiana, under Cause No. 15D02-2006-CT-000016. (The “Complaint.”)

2. Plaintiff’s Complaint for Damages alleges she was involved in a motor vehicle accident with Chris Smith and during same alleges to have sustained “serious bodily injury” and:

Has incurred and will continue to incur medical bills and expenses, and has experienced and will continue to experience physical and mental pain and suffering, inconvenience, and lost wages.

(See Complaint, ¶¶ 6 & 7.)

3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 94(b)(1) and 1441(a), because the United States District Court for the Southern District of Indiana, New Albany

Division, is the federal judicial district and division embracing the Superior Court of Dearborn County, Indiana, where this action was originally filed.

4. By filing a Notice of Removal in this matter, ETI Defendants do not waive their rights to object to service of process, the sufficiency of process, jurisdiction over the person, or venue, and ETI Defendants specifically reserve the right to assert any defenses and/or objections to which they may be entitled.

5. As discussed below, this Court has original jurisdiction under 28 U.S.C. § 1332 and this case is removable under 28 U.S.C. § 1446(b)(3).

#### **Removal is Timely**

6. 28 U.S.C. § 1446(b) provides the following time limitation on removal of civil actions:

The notice of removal of a civil action or proceeding shall be filed **within 30 days** after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within thirty days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.

(Emphasis added).

7. Executive Transportation, Inc. first received a copy of the Complaint for Damages on or about June 4, 2020. Defendant Chris Smith first received a copy of the Complaint on or after June 4, 2020.

8. Because ETI Defendants are filing this Notice on June 30, 2020, within thirty (30) days after Executive Transportation, Inc. received a copy of the Complaint, removal is timely.

#### **Complete Diversity of Citizenship Exists Among the Parties**

9. Plaintiff, Carlotta Taylor, is a citizen of the State of Alabama.

10. Chris Smith is a citizen of the state of Kentucky.

11. Executive Transportation, Inc. is a Kentucky Corporation with a principal place of business in Kentucky. As such, it is a citizen of the state of Kentucky.

12. Thus, the controversy in said action is entirely between citizens of different states of the United States, and ETI Defendants desire to remove said cause from the Superior Court of Dearborn County, Indiana, to the United States District Court, Southern District of Indiana, New Albany Division pursuant to 28 U.S.C. 1332(a)(1) and 1441(a).

**The Amount In Controversy Requirement is Satisfied**

13. The amount in controversy requirement of 28 U.S.C. § 1332 is also satisfied. Under 28 U.S.C. § 1332(a), the amount in controversy in a case where federal jurisdiction is based on diversity of citizenship must exceed \$75,000, exclusive of interest and costs. Where, as here, the complaint does not specify the amount in controversy, the removing Defendant must show a reasonable probability that the jurisdictional minimum has been met. Malinowski v. Walgreen Co., NO. 2:08-CV-173 RM, 2008 WL 2704740, at \*3 (N.D. Ind. July 3, 2008). “[A] good-faith estimate of the stakes is acceptable if it is plausible and supported by a preponderance of the evidence.” Id. (quoting Oshana v. Coca-Cola Co., 472 F.3d 506, 511 (7th Cir. 2006)).

14. In a phone communication on June 4, 2020, Plaintiff’s counsel confirmed to counsel for ETI Defendants the amount in controversy in this case exceeds \$75,000.

15. Because both of the requirements for federal diversity jurisdiction are satisfied, this case is removable by ETI Defendants.

**Removal is Appropriate**

16. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) because there is complete diversity of citizenship among the parties, and the

amount in controversy exceeds \$75,000, exclusive of interest and costs. Accordingly, removal is appropriate pursuant to 28 U.S.C. §§ 1441 and 1446.

17. ETI Defendants have attached as Exhibit “A” to this Notice of Removal, to the extent existing, copies of the state court docket sheet, all pleadings, motions, orders, and all other filings, organized in chronological order by the state court filing, as required under 28 U.S.C. §§ 1441, 1446.

18. Attached hereto as Exhibit “B” is a copy of Plaintiff’s Complaint.

19. This Notice of Removal is being served upon Plaintiff and contemporaneously filed with the Clerk of Superior Court of Dearborn County, Indiana. Copies of the Notice of Filing Notice of Removal, together with the Notice of Removal are being served upon Plaintiff pursuant to 28 U.S.C. § 1446(b).

20. The filing fee of \$400.00 has been paid to the Clerk of the United States District Court at the time of filing the Notice of Removal.

21. A copy of ETI Defendants’ Notice to Plaintiff and Clerk of the Superior Court of Dearborn County of Defendants’ Application to Remove Cause to Federal Court is attached hereto as Exhibit “C.”

KIGHTLINGER & GRAY, LLP

By: /s/Erin A. Clancy  
Erin A. Clancy, I.D. No. 21962-49  
*Attorney for Chris Smith and Executive  
Transportation, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 30, 2020, the foregoing was filed electronically. Service of this filing will be made on all registered counsel by operation of the Dearborn County Superior Court's electronic filing system.

John L. Smith  
Morgan & Morgan  
611 E. Spring Street  
New Albany, IN 47150  
[Johnsmith@forthepeople.com](mailto:Johnsmith@forthepeople.com)  
*Attorney for Plaintiff*

/s/Erin A. Clancy  
Erin A. Clancy

KIGHTLINGER & GRAY, LLP  
One Indiana Square, Suite 300  
211 N. Pennsylvania Street  
Indianapolis, IN 46204  
(317) 638-4521  
[Eclancy@k-glax.com](mailto:Eclancy@k-glax.com)